

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA DIVISION**

In re: Jorge R Rosario Debtor, Ipatia C Bueno Joint Debtor, WILMINGTON SAVINGS FUND SOCIETY, FSB, D/B/A CHRISTIANA TRUST, NOT INDIVIDUALLY BUT AS TRUSTEE FOR PRETIUM MORTGAGE ACQUISITION TRUST Movant, v. Jorge R Rosario Debtor, Ipatia C Bueno Joint Debtor, KENNETH E. WEST, Esquire Trustee/Respondent,	Bankruptcy No. 23-12334-pmm Chapter 13 Hearing Date: February 28, 2024 Hearing Time: 1:00 P.M. Location: Robert N.C. Nix Sr. Federal Courthouse 900 Market Street, Suite 204 Philadelphia, PA 19107
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

AMENDED MOTION OF WILMINGTON SAVINGS FUND SOCIETY, FSB, D/B/A
CHRISTIANA TRUST, NOT INDIVIDUALLY BUT AS TRUSTEE FOR PRETIUM
MORTGAGE ACQUISITION TRUST FOR RELIEF FROM THE AUTOMATIC STAY
TO FORECLOSE ON 1356 SUNSET STREET, TRAINER, PA 19061

Secured Creditor, WILMINGTON SAVINGS FUND SOCIETY, FSB, D/B/A CHRISTIANA TRUST, NOT INDIVIDUALLY BUT AS TRUSTEE FOR PRETIUM MORTGAGE ACQUISITION TRUST, by and through the undersigned counsel, hereby moves this Court, pursuant to 11 U.S.C. § 362(d) , for a modification of the automatic stay provisions for cause, and, in support thereof, states the following:

1. Debtor(s), Nathaniel F. Mallory, filed a voluntary petition pursuant to Chapter 13 of the

United States Bankruptcy Code on August 03, 2023.

2. Jurisdiction of this cause is granted to the Bankruptcy Court pursuant to 28 U.S.C. § 1334, 11 U.S.C. § 362(d), Fed. R. Bankr. P. 4001(a), and all other applicable rules and statutes affecting the jurisdiction of the Bankruptcy Courts generally.
3. On April 3, 2006, Jorge R. Rosario and Ipatia C Bueno (“Debtor”) executed and delivered a Promissory Note (“Note”) and Mortgage (“Mortgage”) securing payment of the Note in the amount of \$108,000.00 to Sunset Mortgage Company, L.P., A Limited Relationship true and correct copy of the Note is attached hereto as Exhibit “A.”
4. The Mortgage was recorded on April 18, 2006 in Instrument# 2006035449 in Book 03776 Page 1689 of the Public Records of Delaware County, PA. A true and correct copy of the Mortgage is attached hereto as Exhibit “B.”
5. The Mortgage was secured as a lien against the Property located at 1356 Sunset Street, Trainer, PA 19061. (“the Property”).
6. The loan was lastly assigned to WILMINGTON SAVINGS FUND SOCIETY, FSB, D/B/A CHRISTIANA TRUST, NOT INDIVIDUALLY BUT AS TRUSTEE FOR PRETIUM MORTGAGE ACQUISITION TRUST and same was recorded with the Philadelphia County Recorder of Deeds on November 21, 2018, as Instrument Number 2018056353. A true and correct copy of the Assignment of Mortgage is attached hereto as Exhibit “C.”
7. Based upon the Debtor(s)’ Chapter 13 First Amended Plan (Docket No. {21}), the Debtor intends to cure Secured Creditor's pre-petition arrearages within the Chapter 13 Plan and is responsible for maintaining post-petition payments directly to Secured Creditor. A true and correct copy of the Chapter 13 First Amended Plan is attached hereto as Exhibit “D.”

8. Debtor has failed to make the monthly payments of principal, interest, and escrow in the amount of \$1,314.63 which came due on November 1, 2023 through January 1, 2024.
9. Thus, Debtor(s)' post-petition arrearage totaled \$2,770.65 less suspense \$1,173.24 through January 31, 2024.
10. The current unpaid principal balance due under the loan documents is approximately \$80,112.71. Movant's total claim amount, itemized below, is approximately \$119,049.19. See Exhibit "E."

Principal Balance	\$80,112.71
Interest (03/01/21 to 01/12/24)	\$16,057.89
Escrow Advance	\$15,066.76
Suspense Balance	\$2,143.39
Total Fees	\$83.25
Recoverable Balance	\$9,871.97
Total to Payoff	\$119,049.19

11. According to the Debtor(s)' schedules, the value of the property is \$215,334.00. A true and accurate copy of the Debtor(s)' Schedule A/B is attached hereto as Exhibit "F."
12. Under Section 362(d)(1) of the Code, the Court shall grant relief from the automatic stay for "cause" which includes a lack of adequate protection of an interest in property. Sufficient "cause" for relief from the stay under Section 362(d)(1) is established where a debtor has failed to make installment payments or payments due under a court-approved plan, on a secured debt, or where the Debtor(s) have no assets or equity in the Mortgaged Property.
13. As set forth herein, Debtor has defaulted on his/her/their secured obligation as he/she/they has/have failed to make his/her/their monthly post-petition installment payments.
14. As a result, cause exists pursuant to 11 U.S.C. § 362(d) of the Code for this Honorable Court to grant relief from the automatic stay to allow Secured Creditor, its successor and/or

assignees to pursue its state court remedies, including the filing of a foreclosure action.

15. Additionally, once the stay is terminated, the Debtor(s) will have minimal motivation to insure, preserve, or protect the collateral; therefore, Secured Creditor requests that the Court waive the 14-day stay period imposed by Fed.R.Bankr.P. 4001(a)(3).

WHEREFORE, Secured Creditor, prays this Honorable Court enter an order modifying the automatic stay under 11 U.S.C. § 362(d) to permit WILMINGTON SAVINGS FUND SOCIETY, FSB, D/B/A CHRISTIANA TRUST, NOT INDIVIDUALLY BUT AS TRUSTEE FOR PRETIUM MORTGAGE ACQUISITION TRUST to take any and all steps necessary to exercise any and all rights it may have in the collateral described herein, to gain possession of said collateral, to seek recovery of its reasonable attorneys' fees and costs incurred in this proceeding, to waive the 14-day stay imposed by Fed.R.Bankr.P. 4001(a)(3), and for any such further relief as this Honorable Court deems just and appropriate.

Date: 2/01/2024

**Robertson, Anschutz, Schneid, Crane
& Partners, PLLC**

Attorney for Secured Creditor
13010 Morris Rd., Suite 450
Alpharetta, GA 30004
Telephone: 470-321-7112
By: /s/ Michelle L. McGowan
Michelle L. McGowan
PA Bar Number 62414
Email: mimcgowan@raslg.com